Fiscal Note 2011 Biennium

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Bill #	SB0258	**Title:**	Revise oil and gas tax holiday
Primary Sponsor:	Kaufmann, Christine	**Status:**	As Introduced

- ☐ Significant Local Gov Impact
- ☐ Needs to be included in HB 2
- ☑ Technical Concerns
- ☐ Included in the Executive Budget
- ☐ Significant Long-Term Impacts
- ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2010 Difference	FY 2011 Difference	FY 2012 Difference	FY 2013 Difference
Expenditures:				
General Fund	$0	$0	$0	$0
State Special Revenue	$0	$0	$11,002,000	$10,550,000
Revenue:				
General Fund	$0	$0	$11,508,000	$11,035,000
State Special Revenue	$0	$0	$12,248,000	$11,744,000
Net Impact-General Fund Balance:	$0	$0	$11,508,000	$11,035,000

Description of fiscal impact:

This bill changes the production tax rate for natural gas produced during the first 12 months (vertically completed wells) or the 18 months of production (horizontally completed wells) from 0.50% to 9.00% if the average price during a calendar quarter (as published in the Wall Street Journal at the Henry Hub in Louisiana) is over $7.60 per million btu's.

This bill also changes the production tax rate for oil produced during the first 12 months (vertically completed wells) or the 18 months of production (horizontally completed wells) from 0.50% to 9.00% if the average price during a calendar quarter (as published in the Wall Street Journal for West Texas Intermediate crude oil at Cushing, Oklahoma) is over $80 per barrel.

FISCAL ANALYSIS

Assumptions:

1. 15-6-304, MCA establishes the production tax rates imposed on oil and natural gas. This statute establishes tax rates for the working interest portion and the non-working (royalty) interest portion of oil and natural gas production.
2. The tax rate for royalty interests is 14.8%. Royalty interests held by Indian tribes, the United States as trustee for individual Indians, the United States, the state of Montana, or a county or municipal government in Montana are exempt from taxation. The taxation of royalty interests is not affected by this bill.
3. Working interest tax rates vary depending on characteristics of the wells the oil and natural gas is produced from, published benchmark prices for oil, and the date of completion of a well (pre-1999 versus post-1999), with reduced rates for the first 12 or 18 months of production for certain types of wells.
4. This bill amends 15-36-304, MCA.
5. Under current law, tax rate for the working interest portion of production of natural gas is 0.50% for the first 12 months of production (vertically completed wells) or the first 18 months of production (horizontally completed wells). This bill provides that, if the average Henry hub spot price of a million Btu's of natural gas as reported in the Wall Street Journal in a calendar quarter is equal to or greater than $7.60 per million Btu's, the tax rate would be 9.00% for wells that are completed after December 31, 2009.
6. Under current law, tax rate for the working interest portion of production of oil is 0.50% for the first 12 months of production (vertically completed wells) or the first 18 months of production (horizontally completed wells). This bill provides that, if the average price for a barrel of oil as reported in the Wall Street Journal for West Texas Intermediate crude oil during a calendar quarter is equal to or greater than $80 per barrel, the tax rate would be 9.00% for vertically completed wells that are completed after December 31, 2009, and horizontally completed wells that are completed after December 31, 2007.
7. The national price for oil and gas is not expected to meet the triggers for the increased tax rates in the 2011 biennium. However, after the June of 2011 prices are expected to reach the threshold. The table below shows the quarterly IHS Global Insight forecast for WTI and Henry Hub prices for FY 2012 through FY 2013
8. The official revenue forecast, HJ2, only goes through the 2011 biennium. The executive revenue estimate was used to calculate the difference for SB 258. The table below shows the estimated working interest value of oil and natural gas that would no longer be eligible for the tax holiday.

Forecasted Oil and Gas Prices for the 2013 Biennium

Fiscal Quarter	WTI Price	Above $ 80 Threshold	Henry Hub Price	Above $ 7.60 Threshold
2012:1	**$81.50**	**Yes**	$6.76	No
2012:2	**$83.00**	**Yes**	**$8.51**	**Yes**
2012:3	**$84.50**	**Yes**	**$9.77**	**Yes**
2012:4	**$86.00**	**Yes**	$7.18	No
2013:1	**$87.50**	**Yes**	$7.11	No
2013:2	**$89.00**	**Yes**	**$8.52**	**Yes**
2013:3	**$90.50**	**Yes**	**$9.72**	**Yes**
2013:4	**$92.00**	**Yes**	**$8.23**	**Yes**

9. The distribution to county governments depends on the county of production. In FY 2008, 46.3% of total tax revenue was distributed to the counties. This ratio is expected to stay the same for FY 2012 and FY 2013.

Estimated Tax Revenue from New Qualifying Oil and Gas Production in Montana
($ millions)

Present Law

Fiscal Year	Working Interest Subject to Holiday		Tax Rate		Tax Revenue	State Share	County Share
F 2012	$279.481	X	0.50%	=	$1.397	$0.750	$0.647
F 2013	$267.988	X	0.50%	=	$1.340	$0.719	$0.621

SB 258

Fiscal Year	Working Interest Subject to Holiday		Tax Rate		Tax Revenue	State Share	County Share
F 2012	$279.481	X	9.00%	=	$25.153	$13.504	$11.649
F 2013	$267.988	X	9.00%	=	$24.119	$12.949	$11.170

Difference

Fiscal Year	Working Interest Subject to Holiday	Percentage Points	Tax Revenue	State Share	County Share
F 2012	$0.000	8.5	$23.756	$12.754	$11.002
F 2013	$0.000	8.5	$22.779	$12.229	$10.550

10. The state share of the revenue is distributed as follows in accordance with 15-36-331, MCA. The table below lists the allocation percentages.

Entity	Allocation Percentage
Coal Bed Methane Protection Acct.	1.23%
Natural Resource Projects Acct.	1.45%
Natural Resource Operations Acct.	1.45%
Orphan Share Acct.	2.99%
University System	2.65%
General Fund Share	**90.23%**

11. This bill will not increase administrative costs for the department of revenue.
12. The revenue collected at the state for distribution to local governments is statutorily appropriated.

	FY 2010 Difference	FY 2011 Difference	FY 2012 Difference	FY 2013 Difference
Fiscal Impact:				
Expenditures:				
Local Assistance	-	-	$11,002,000	$10,550,000
Funding of Expenditures:				
County Governments (02)	-	-	$11,002,000	$10,550,000
Revenues:				
General Fund Share (01)	-	-	$11,508,000	$11,035,000
Coal Bed Methane Protection Acct. (02)	-	-	$157,000	$150,000
Natural Resource Projects Acct. (02)	-	-	$185,000	$177,000
Natural Resource Operations Acct. (02)	-	-	$185,000	$177,000
Orphan Share Acct. (02)	-	-	$381,000	$366,000
University System (02)	-	-	$338,000	$324,000
County Governments (02)	-	-	$11,002,000	$10,550,000
TOTAL Revenues	-	-	$23,756,000	$22,779,000
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund Share (01)	-	-	$11,508,000	$11,035,000
Coal Bed Methane Protection Acct. (02)	-	-	$157,000	$150,000
Natural Resource Projects Acct. (02)	-	-	$185,000	$177,000
Natural Resource Operations Acct. (02)	-	-	$185,000	$177,000
Orphan Share Acct. (02)	-	-	($10,621,000)	($10,184,000)
University System (02)	-	-	$338,000	$324,000
County Governments (02)	-	-	-	-

Effect on County or Other Local Revenues or Expenditures:

1. Local governments of counties that have oil and gas production will receive $11.002 million in FY 2012 and $10.550 million in FY 2013. That amount is divided between the local schools and the county governments. Approximately 53% of the county revenue is distributed to local schools and the remaining revenue goes to county governments.

Long-Term Impacts:

1. Crude oil prices can be greatly impacted by global events that cannot be anticipated. During the last year alone, oil traded at about $150 per barrel in July 2008. Less than six months later, oil was being traded for approximately 20% of its July price. If the world experiences similar fluctuations in the future, state general fund revenues, state special revenue fund revenues, and local government revenues could experience similar volatility.

Technical Notes:

1. Page 4, Line 5: "horizontally completed wells drilled after December 31, 2007". This is inconsistent with the applicability clause. Page 5 Lines 26 and 27: "wells drilled after December 31, 2009"
2. There appears to be a conflict with the language contained in (3)(b) and (3)(c). Section (3)(b) refers to "average Henry hub spot price of a million Btu's of natural gas" while (3)(c) refers to "the average price of a million Btu's of natural gas..." The point is, (3)(c) discusses how "the average price of a million Btu's of natural gas…" is calculated for purposes of (3)(b), while that precise term "Henry hub spot price" is not used in (3)(b). Section (3)(c) might need to include "Henry hub spot" to be consistent.

3. Sections (3)(c) and section (4)(b) seems to indicate that the price to be calculated is per calendar quarter (if the average price in that calendar quarter exceeds $7.60 per million…, then the production is taxed at the higher rate). Clarity may be improved by adding "for the calendar quarter" before "must" on line 12.

Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*